

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,) CRIMINAL NO. 19-00099-DKW
)
 Plaintiff,) Honolulu, Hawaii
)
 vs.) January 23, 2024
)
 MICHAEL J. MISKE, JR.,) TESTIMONY OF SEUNG JI
) ROBERT LEE
 Defendant.)
)

PARTIAL TRANSCRIPT OF JURY TRIAL (DAY 10)
BEFORE THE HONORABLE DERRICK K. WATSON,
CHIEF UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Plaintiff: MARK INCIONG, ESQ.
MICHAEL DAVID NAMMAR, ESQ
WILLIAM KE AUPUNI AKINA, ESQ.
AISLINN AFFINITO, ESQ.
Office of the United States Attorney
PJKK Federal Building
300 Ala Moana Boulevard, Suite 6100
Honolulu, Hawaii 96850

For the Defendant: LYNN E. PANAGAKOS, ESQ.
841 Bishop St., Ste 2201
Honolulu, HI 96813

MICHAEL JEROME KENNEDY, ESQ.
Law Offices of Michael Jerome
Kennedy, PLLC
333 Flint Street
Reno, NV 89501

Official Court Reporter: Gloria T. Bediaamol, RPR RMR CRR FCRR
United States District Court
300 Ala Moana Boulevard
Honolulu, Hawaii 96850

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1 January 23, 2024 11:26 a.m.

08:36AM 2 THE CLERK: Criminal Number 19-00099-DKW-KJM, United

08:36AM 3 States of America versus Defendant (01) Michael J. Miske, Jr.

08:36AM 4 This case has been called for jury trial, day 10.

08:36AM 5 Counsel, please make your appearances for the record.

08:36AM 6 MR. INCIONG: Good morning, Your Honor. Mark Inciong,

08:36AM 7 Michael Nammar, KeAupuni Akina for the United States. Also

08:36AM 8 present with us at counsel table today are -- I guess I should

08:36AM 9 say behind counsel table is our paralegal Kari Sherman and FBI

08:36AM 10 Special Agent Thomas Palmer.

08:36AM 11 THE COURT: Good morning to all of you.

08:36AM 12 MR. KENNEDY: Good morning, Your Honor. Michael

08:36AM 13 Kennedy with Lynn Panagakos, here with Mr. Miske, and with

08:37AM 14 Ashley King, who is assisting us.

08:37AM 15 THE COURT: All right. Good morning to all of you as

08:37AM 16 well. You may be seated.

11:26AM 17 --oo0oo--

11:26AM 18 THE COURT: Government may call its next witness.

11:26AM 19 MR. INCIONG: Thank you, Your Honor. The United

11:26AM 20 States calls Seung Ji Robert Lee.

11:26AM 21 THE CLERK: Please raise your right hand.

11:26AM 22 SEUNG JI ROBERT LEE,

11:26AM 23 called as a witness, having been first duly sworn, was examined

11:26AM 24 and testified as follows:

11:26AM 25 THE CLERK: Please state your full name, spelling your

11:27AM 1 last name for the record.

11:27AM 2 THE WITNESS: My name is Seung Ji Robert Lee.

11:27AM 3 THE COURT: Your last name is spelled how, sir?

11:27AM 4 THE WITNESS: L-E-E.

11:27AM 5 THE COURT: Thank you.

11:27AM 6 DIRECT EXAMINATION

11:27AM 7 BY MR. INCIONG:

11:27AM 8 Q Good morning, Mr. Lee. Good morning.

11:27AM 9 A Good morning.

11:27AM 10 Q How old are you, sir?

11:27AM 11 A I'm 78 years old.

11:27AM 12 Q Where were you born?

11:27AM 13 A I was born in China.

11:27AM 14 Q Did you grow up in China?

11:27AM 15 A It's Northern China called Shandong Province.

11:27AM 16 Q Did you spend your whole childhood there?

11:27AM 17 A No, I lived there for about four and a half years.

11:27AM 18 Q Where did you move to from there?

11:27AM 19 A And from there I moved to Korea, and I lived there for
11:27AM 20 about 14 years.

11:27AM 21 Q You moved somewhere from Korea?

11:27AM 22 A From Korea I moved to Brazil. I lived in Sao Paulo for
11:28AM 23 about six years.

11:28AM 24 Q Okay. What were you doing in Sao Paulo, Brazil?

11:28AM 25 A I was a student. I was running a little coffee shop.

11:28AM 1 Q I see. Where did you leave Brazil for? Where did you go
11:28AM 2 next?

11:28AM 3 A Oh, from there I stopped in Hong Kong and Taiwan for
11:28AM 4 probably around eight months, and I came over to Hawaii.

11:28AM 5 Q What year was that approximately?

11:28AM 6 A I came in 1970.

11:28AM 7 Q Why did you come to Hawaii?

11:28AM 8 A To have a higher education here.

11:28AM 9 Q You attended school here?

11:28AM 10 A I attended University of Hawaii.

11:28AM 11 Q What did you study?

11:28AM 12 A I studied accounting and computer science.

11:28AM 13 Q Did you graduate from UH?

11:28AM 14 A Yes. I have an associate degree and also bachelor's in
11:28AM 15 business administration.

11:28AM 16 Q What year did you get your bachelor's degree in?

11:29AM 17 A First, associate degree was in 1972, and I received my
11:29AM 18 bachelor's degree in 1980.

11:29AM 19 Q Okay. What kind of work did you do after you graduated
11:29AM 20 from the University of Hawaii?

11:29AM 21 A I am an accountant, and I received my CPA license in 1985,
11:29AM 22 I believe.

11:29AM 23 Q Okay. So how long did you work in the accounting field?

11:29AM 24 A A little over 40 years.

11:29AM 25 Q Did you have your own accounting firm or did you work for

11:29AM 1 a company?

11:29AM 2 A First I worked six years at the local CPA firm, and

11:29AM 3 thereafter I had my own.

11:29AM 4 Q Was it just your own one-man business or did you have

11:29AM 5 other accountants?

11:29AM 6 A No, one time I had about eight staff, including two CPAs.

11:30AM 7 Q Are you still working in the accounting field in any way?

11:30AM 8 A Actually I retired, but I still have some clients that

11:30AM 9 need individual tax returns, so during the tax season I work as

11:30AM 10 a part-time.

11:30AM 11 Q I see. So what year did you transition, retire from your

11:30AM 12 firm to doing the part-time work you're doing now?

11:30AM 13 A It's probably 2016.

11:30AM 14 Q All right. Are you married, Mr. Lee?

11:30AM 15 A I am.

11:30AM 16 Q How long have you been married?

11:30AM 17 A For 47 years.

11:30AM 18 Q Do you have any children?

11:30AM 19 A I have two.

11:30AM 20 Q Any grandchildren?

11:30AM 21 A Four grandchildren.

11:30AM 22 Q So you worked for a very long time in the accounting

11:30AM 23 field, for 40 years, you said?

11:30AM 24 A Yes.

11:30AM 25 Q Did you limit yourself to accounting or did you have any

11:31AM 1 other business ventures that you --

11:31AM 2 A One time I had changed to work with light gauge steel

11:31AM 3 studs manufacturing business.

11:31AM 4 Q Light gauge steel studs?

11:31AM 5 A Right.

11:31AM 6 Q Okay. What are those? If you can explain to the jury.

11:31AM 7 A Because we have termite problem here.

11:31AM 8 Q Right.

11:31AM 9 A So in sometime probably in late 1990s, there is trend to

11:31AM 10 start using light gauge steel studs. It's galvanized with zinc

11:31AM 11 so it doesn't rust.

11:31AM 12 Q So is this for framing houses and buildings instead of

11:31AM 13 wood?

11:31AM 14 A Yes.

11:31AM 15 Q Okay. So you were interested in starting and going into

11:31AM 16 that business in some way?

11:31AM 17 A Yes. We started in -- we incorporated in 2000, and

11:32AM 18 probably spent a couple of years to prepare and acquire

11:32AM 19 machinery. And the actual production probably started around

11:32AM 20 2005.

11:32AM 21 Q I see. So was this something you were doing by yourself

11:32AM 22 or did you have other business partners?

11:32AM 23 A I guess around 2014 or 2000 -- I mean, I'm sorry, 2003 or

11:32AM 24 2004, the two individuals, they want to join us, so they became

11:32AM 25 shareholder. So we had three shareholders.

11:32AM 1 Q I see. So what was your title with the company?

11:32AM 2 A I was president.

11:32AM 3 Q Did this company have a name?

11:32AM 4 A It's called Atlas Steel.

11:32AM 5 Q Did you come up with that name?

11:32AM 6 A It was -- somebody from construction field recommended.

11:33AM 7 Q Okay. So you were the president of Atlas Steel, and then
11:33AM 8 you said in about 2003 you brought in two investors; is that
11:33AM 9 correct?

11:33AM 10 A Yes.

11:33AM 11 Q Had you invested any of your own money into Atlas Steel?

11:33AM 12 A In the beginning I invested about \$450,000.

11:33AM 13 Q Of your own money?

11:33AM 14 A My own money, yes.

11:33AM 15 Q How much did the investors contribute?

11:33AM 16 A The other investor, one came out the same amount, 450, and
11:33AM 17 the other one invested 150.

11:33AM 18 Q Can I ask the names of these two investors?

11:33AM 19 A The one that invest first, it's Yong Choi, and he invested
11:33AM 20 150.

11:33AM 21 Q Can I have you spell his last name, please?

11:33AM 22 A His last name is C-H-O-I.

11:33AM 23 Q Okay. So Mr. Choi invested 150,000.

11:33AM 24 A Right.

11:33AM 25 Q And there was a second investor, correct?

11:33AM 1 A Second investor is Young Ho Kim, yeah. And he has

11:34AM 2 American name of Tony.

11:34AM 3 Q He goes by Tony Kim?

11:34AM 4 A Yes.

11:34AM 5 Q How much did Mr. Kim invest?

11:34AM 6 A Mr. Kim invested \$450,000.

11:34AM 7 Q So that was the initial investment, correct?

11:34AM 8 A Yes.

11:34AM 9 Q So after you brought in those investors in early 2000s,

11:34AM 10 2003, 2004, how was business progressing after that?

11:34AM 11 A Right after we started, we had -- there was only one

11:34AM 12 manufacturing in town in Hawaii.

11:34AM 13 Q One competitor?

11:34AM 14 A There was -- it was a small company, so I shouldn't say it

11:34AM 15 was competitor. But the owner passed away, and it took over by

11:34AM 16 the nation's largest manufacturer. When they moved in they

11:34AM 17 brought six new machines and built the big factory, and

11:34AM 18 thereafter it got -- we got affected.

11:35AM 19 Q So what was your capacity as compared to the --

11:35AM 20 A We only had one machine at the beginning, and we -- about

11:35AM 21 five years later we bought another machine, tried to compete

11:35AM 22 with them, but it just -- we couldn't because this is very

11:35AM 23 capital-intensive business. The steel, we have to buy from

11:35AM 24 mainland where they come out of the manufacturing plant is

11:35AM 25 50-inch wide, and it weighs seven or eight tons. And you have

11:35AM 1 to slip them into different sizes, and then palletize it, and

11:35AM 2 then ship over to here. And you have to have all different

11:35AM 3 size, all different thickness of inventory in order to service

11:35AM 4 properly to the contractors and construction company.

11:35AM 5 Q I see.

11:35AM 6 A And from the beginning we were struggling.

11:36AM 7 Q Okay. So did you have a manufacturing facility here that

11:36AM 8 you had built?

11:36AM 9 A We had -- first we had in Mapunapuna, and we moved that to

11:36AM 10 Sand Island. And then one time we have to file Chapter 11 for

11:36AM 11 a short period of time, about five months. We got out of there

11:36AM 12 and we moved to the Campbell Industrial Park.

11:36AM 13 Q All right. So you mentioned at one point that you went

11:36AM 14 from one machine to having two manufacturing machines.

11:36AM 15 A Right.

11:36AM 16 Q Did that require additional investment or capital?

11:36AM 17 A Yes.

11:36AM 18 Q Where did that money come from?

11:36AM 19 A That money was from Small Business Administration.

11:36AM 20 Q Okay. So a loan?

11:36AM 21 A A loan, yes.

11:36AM 22 Q How much was that loan for?

11:36AM 23 A It was about \$700,000.

11:36AM 24 Q Who -- was that loan taken out in your name, all the

11:36AM 25 investors' names?

11:36AM 1 A The lender was looking for our financial, and Young Ho Kim
11:37AM 2 was the wealthiest, and so they asked him to personally
11:37AM 3 guarantee for that loan.
11:37AM 4 Q That's Tony Kim.
11:37AM 5 A Tony Kim, yes.
11:37AM 6 Q He personally guaranteed the \$700,000 loan?
11:37AM 7 A Right.
11:37AM 8 Q All right. So what about additional investments from
11:37AM 9 yourself or the other two investors aside from at that loan,
11:37AM 10 was there other money put in?
11:37AM 11 A Mr. Choi had cancer, so he has to drop out in the middle.
11:37AM 12 And I have to sell my house to put in more money. So I
11:37AM 13 probably put about a little over a million of my money. That
11:37AM 14 was my lifetime savings.
11:37AM 15 Q So that's including the \$450,000 you initially put in?
11:37AM 16 A Yes.
11:37AM 17 Q So over a million of your own money.
11:37AM 18 A Right.
11:37AM 19 Q What about Mr. Kim?
11:37AM 20 A Mr. Kim, he -- initially he put 450.
11:37AM 21 Q Right.
11:37AM 22 A And when we become default on the SBA loan and we were
11:38AM 23 behind the rent, the bank foreclosed. So Mr. Kim has to pay
11:38AM 24 that. I guess by then the balance was a little over 500,000.
11:38AM 25 Q All right. So how much money was Mr. Kim out at that

11:38AM 1 point?

11:38AM 2 A Mr. Kim probably put about altogether 970,000.

11:38AM 3 Q All right. Now, you mentioned that you had to declare

11:38AM 4 bankruptcy at one point because --

11:38AM 5 A We tried to -- because the pressure coming from the

11:38AM 6 creditors, so we filed Chapter 11, but we were able to work

11:38AM 7 with them. So it was January of 2013, and then May of 2013,

11:38AM 8 five months later, we worked out, so we dismissed from the

11:39AM 9 Chapter 11.

11:39AM 10 Q Okay. So was that then Chapter 11, the reorganization

11:39AM 11 type of bankruptcy that you went into?

11:39AM 12 A Yes.

11:39AM 13 Q So that wasn't very long you were in that period.

11:39AM 14 A It was only five months.

11:39AM 15 Q Okay. So when you came out of -- you merged, I guess is

11:39AM 16 the word they use, right, from the Chapter 11 bankruptcy, did

11:39AM 17 business get better?

11:39AM 18 A We were able to keep up with payments because we moved

11:39AM 19 from Sand Island to Campbell Industrial Park. It's just a open

11:39AM 20 space, built a roof, and we installed machine there. So rent

11:39AM 21 was much cheaper.

11:39AM 22 Q I see.

11:39AM 23 A But even that we couldn't keep up longer. So we probably

11:39AM 24 last about two to three years there, and then finally we just

11:39AM 25 closed.

11:39AM 1 Q So you finally just completely went out of business?

11:40AM 2 A Yes.

11:40AM 3 Q What year was that approximately?

11:40AM 4 A At the end of 2015.

11:40AM 5 Q All right. During this time were you still operating and
11:40AM 6 running your accounting firm?

11:40AM 7 A Yes, I was more on the full time there, and then part-time
11:40AM 8 on my accounting.

11:40AM 9 Q I see. So bottom line, when you closed Atlas Steel in
11:40AM 10 2015, how much money had you lost?

11:40AM 11 A You mean, how much I lost?

11:40AM 12 Q Yes.

11:40AM 13 A I lost probably 1.1 million.

11:40AM 14 Q And what about Mr. Kim?

11:40AM 15 A He probably lost 970,000.

11:40AM 16 Q That's a lot of money.

11:40AM 17 A A lot of money, yes. Both of us lost \$2 million.

11:40AM 18 Q So was Mr. Kim upset about losing that money?

11:40AM 19 A Yes, he was very upset.

11:40AM 20 Q How did he express that to you?

11:40AM 21 A He tried to tell me to pay him back.

11:41AM 22 Q And did you feel like you owed him?

11:41AM 23 A I told him we were both investors. And I lost all my
11:41AM 24 lifetime savings, and he lost probably only 10 percent -- less
11:41AM 25 than 10 percent of his -- so he keep asking me, You have

11:41AM 1 ability to borrow. And I said, No, I cannot borrow any more,

11:41AM 2 and you're investor. And he start threatening me.

11:41AM 3 Q So he didn't take no for an answer, would that be correct

11:41AM 4 to say?

11:41AM 5 A Beg your pardon?

11:41AM 6 Q He continued to ask you to repay him?

11:41AM 7 A Yes.

11:41AM 8 Q How long did this go on for?

11:41AM 9 A It was probably longer than a year, almost two years. He

11:41AM 10 was text me day and night. And he even come to my office, and

11:41AM 11 want me to come out with him, and then bring me to somewhere

11:42AM 12 nearby, and he was threatening me. Sometimes he has bag, I

11:42AM 13 don't know what's in the bag, but he was shaking that, and then

11:42AM 14 he was saying, You know what's in here? And I don't care

11:42AM 15 what's in there.

11:42AM 16 Q So you said he was texting you as well?

11:42AM 17 A He was texting me. He was sending me all kinds of weird

11:42AM 18 sound, like a dog fighting and all that. Sometimes it come in

11:42AM 19 at 2:00 in the morning, and I was -- I just couldn't keep up

11:42AM 20 with him. So I agreed to pay him 4,000 a month.

11:42AM 21 Q Okay. So basically to get him to stop?

11:42AM 22 A He didn't stop.

11:42AM 23 Q How long did you pay him \$4,000 a month for?

11:43AM 24 A Probably around year and a half.

11:43AM 25 Q All right. So you stopped those payments at one point?

11:43AM 1 A And then, you know, I'm getting old, and then my CPA

11:43AM 2 practice is going down, and so I reduced it to 2,000.

11:43AM 3 Q Was he satisfied with that?

11:43AM 4 A I beg your pardon?

11:43AM 5 Q Was Mr. Kim satisfied with receiving 2,000 instead of

11:43AM 6 4,000?

11:43AM 7 A At least he bothers me less.

11:43AM 8 Q Okay. And how long did you pay him the 2,000 a month for?

11:43AM 9 A Probably six or seven months.

11:43AM 10 Q And then did that stop or change at any point?

11:43AM 11 A And when I retired, I had to lower that to 1,000.

11:43AM 12 Q How long did you pay him 1,000 a month?

11:43AM 13 A I guess probably two or three months.

11:44AM 14 Q And then can I presume correctly that you then stopped

11:44AM 15 paying anything at that point?

11:44AM 16 A And then in 2017, yeah, I was --

11:44AM 17 Q When did you stop paying him in 2017?

11:44AM 18 A Probably around early 2017.

11:44AM 19 Q Okay. Did you continue to get these texts or threats or

11:44AM 20 anything like that being communicated from Mr. Kim?

11:44AM 21 A Yeah, he was still coming around, and then -- and bothers

11:44AM 22 me sometimes. He come with a drunk, you know, and keep telling

11:44AM 23 me to come along with him, and then bring me to coffee shop,

11:44AM 24 and here and there, and then he would keep threatening me.

11:44AM 25 Q Would you ever go with him to any of these places he asked

11:44AM 1 you to?

11:44AM 2 A I only went the nearby, close to my office. You know,
11:45AM 3 walk distance, yes.

11:45AM 4 Q So was he still asking for money then at that point in
11:45AM 5 early 2017 when you had stopped paying?

11:45AM 6 A I guess probably around summertime of 2017, yeah, I was
11:45AM 7 paying 1,000. And I remember one time I have to deliver the
11:45AM 8 1,000 to his store.

11:45AM 9 Q All right. So how much in total would you say you paid
11:45AM 10 Mr. Kim beginning with the 4,000 a month for a year and a half,
11:45AM 11 then the 2,000 a month for about six months, you said, and then
11:45AM 12 a thousand for another few months after that?

11:45AM 13 A Probably about hundred thousand.

11:46AM 14 Q So during this time now, if we go to that period when you
11:46AM 15 just said that the last payment you made, that was -- sounds
11:46AM 16 like spring, maybe summer of 2017 approximately; is that
11:46AM 17 correct, the timeline I have?

11:46AM 18 A Yes. I probably told him at a certain point I cannot pay
11:46AM 19 you any more. I'm not obligated to pay you. And then I guess
11:46AM 20 he say, Oh, okay, I predicted this going to happen. So you'll
11:46AM 21 see what going to happen. And then all of a sudden, there was
11:46AM 22 the incident happened.

11:46AM 23 Q Okay. We'll get to that in just a second.

11:46AM 24 So in 2017, you're retired at this point, correct?

11:46AM 25 A Yes.

11:46AM 1 Q So you're still doing your part-time tax preparation,
11:46AM 2 correct?

11:46AM 3 A Right.

11:46AM 4 Q Are these customers new customers you're still taking on
11:47AM 5 or are these customers that you've had over, you know, the
11:47AM 6 40 years you've been in business?

11:47AM 7 A It was all old customers. They all probably my age.

11:47AM 8 Q Okay. So the middle -- early to mid-October, do you
11:47AM 9 recall receiving a phone call from a new customer -- a new
11:47AM 10 potential customer asking to meet with you?

11:47AM 11 A Yes. It was a Friday, October 13th. I remember.

11:47AM 12 Q Friday the 13th.

11:47AM 13 A October 13th, Friday, and around 5:00 in the afternoon. I
11:47AM 14 was going home, and then somebody called me. And he said his
11:47AM 15 name is James. And he say he need to do his tax return, and I
11:47AM 16 told him to call me next day.

11:47AM 17 So he called me next day, Saturday, and I was with
11:47AM 18 somebody, and I told him to come to my office. And he say he's
11:48AM 19 a tour guide and he's in Kewalo Basin with a tourist. So he
11:48AM 20 want me to come over there to pick up the tax material. So I
11:48AM 21 told him I don't have time. So call me on Monday, because
11:48AM 22 October 15th falls on Sunday, so it's extended to Monday. But
11:48AM 23 he didn't call me on Monday. Instead, he called me on Tuesday.

11:48AM 24 Q Okay. Let me ask you a couple of questions before we go
11:48AM 25 further. So you said -- you mentioned the date of

11:48AM 1 October 15th. In your business in the accounting world, why

11:48AM 2 was that a significant date? Why is that an important date?

11:48AM 3 A It's those who file extension has to -- the extension is

11:48AM 4 due October 15th.

11:48AM 5 Q So your tax return deadline normally is April 15th,

11:49AM 6 correct?

11:49AM 7 A That's correct.

11:49AM 8 Q So with the six-month extension the deadline becomes

11:49AM 9 October 15th?

11:49AM 10 A Right.

11:49AM 11 Q All right. So in 2017, October 15th fell on a Sunday, is

11:49AM 12 that what you said?

11:49AM 13 A Right.

11:49AM 14 Q So the deadline then automatically gets pushed back to the

11:49AM 15 next business day, right?

11:49AM 16 A That's correct.

11:49AM 17 Q So Monday was the day.

11:49AM 18 A Right.

11:49AM 19 Q Okay. Now, when this person called you on Friday the

11:49AM 20 13th, identified themselves as James, did you know this person?

11:49AM 21 Did you know a James?

11:49AM 22 A No.

11:49AM 23 Q Do you normally meet -- agree to meet people at other

11:49AM 24 locations other than your office for your business meetings?

11:49AM 25 A No.

11:49AM 1 Q So was there anything --

11:49AM 2 A I mostly tell them to come to see me in my office.

11:49AM 3 Q So did you have -- did you ask James like how he had
11:49AM 4 gotten your number or how he had been referred to you, or did
11:49AM 5 you have any questions about that?

11:49AM 6 A I asked him how he got my number, and he said somebody
11:50AM 7 referred him -- referred me to him. So...

11:50AM 8 Q Okay. All right. So let's go forward then to that
11:50AM 9 Monday. You said he didn't call on Sunday, correct?

11:50AM 10 A No, he didn't call me on Monday.

11:50AM 11 Q I'm sorry, on Monday. And so then did he call on Tuesday,
11:50AM 12 the next day?

11:50AM 13 A That's correct.

11:50AM 14 Q What was -- what happened during that conversation?

11:50AM 15 A It was around 3:00 and I was in the bank. I just made the
11:50AM 16 deposit, and tried to come to my car, and then he called. And
11:50AM 17 he say he's in Kewalo Basin, and I was at the corner of Queen
11:50AM 18 and Ward. So it's just couple of blocks away.

11:50AM 19 Q Right.

11:50AM 20 A So I say, Okay, I'll come over. So I drove over there,
11:50AM 21 and I didn't see anybody there. So I turned around to go to my
11:51AM 22 office, and then he called. He say, I saw your car and come
11:51AM 23 back. So I drove back to the old Fisherman's Wharf side.
11:51AM 24 There was a lot of tour buses that was parked there, and there
11:51AM 25 was some sedan was parked next. And he wanted me to park my

11:51AM 1 car in one of the spots there, so I did.

11:51AM 2 Q Okay. Let me interrupt right there just for one second.

11:51AM 3 So you said he had seen you and he said he saw your car during

11:51AM 4 the conversation. Is that what you testified to?

11:51AM 5 A Yeah, he said he saw my car.

11:51AM 6 Q Had you given him the make and model of your car to look

11:51AM 7 for before you met?

11:51AM 8 A No, he was asking, Aren't you driving a white color car,

11:51AM 9 the SUV? So I said, Yes. And said, Oh, we just saw your car

11:52AM 10 pass by.

11:52AM 11 Q All right. Let me have you look at one exhibit before you

11:52AM 12 go on to --

11:52AM 13 MR. INCIONG: If we could display Exhibit 5-1, please,

11:52AM 14 which has previously been admitted into evidence.

11:52AM 15 THE COURT: Yes.

11:52AM 16 MR. INCIONG: Thank you, Your Honor.

11:52AM 17 THE WITNESS: Yes, this is Kewalo Basin.

11:52AM 18 MR. INCIONG: Could we publish that for the jury also?

11:52AM 19 THE COURT: You may.

11:52AM 20 MR. INCIONG: Thank you.

11:52AM 21 BY MR. INCIONG:

11:52AM 22 Q Is that the area you're describing?

11:52AM 23 A Yes.

11:52AM 24 Q And you see the little cursor that's moving there on the

11:52AM 25 screen?

11:52AM 1 A Yeah.

11:52AM 2 Q If we go down a little bit lower than that, you described
11:52AM 3 the old Fisherman's Wharf area?

11:52AM 4 A Yes.

11:52AM 5 Q You see the words where it says "Makani Catamaran," is
11:52AM 6 that generally the area?

11:52AM 7 A That -- yeah, somewhere around there.

11:52AM 8 Q Okay. So you get there, you go to this parking lot where
11:52AM 9 you said he described there were a lot of buses parked there,
11:53AM 10 right?

11:53AM 11 A Yes, there was a big bus, medium size bus, and there was a
11:53AM 12 couple of sedan parking next to them.

11:53AM 13 Q All right. So did you see this person who turned out to
11:53AM 14 be James when you pulled into that area?

11:53AM 15 A Yeah, he -- he saw me, and he let me park -- he told me to
11:53AM 16 park there. And he introduced himself. He had aloha shirt
11:53AM 17 and --

11:53AM 18 Q Aloha shirt.

11:53AM 19 A Aloha shirt, yes. And he is about 30. Yeah, young man.

11:53AM 20 Q How else would you describe him? How tall was he
11:53AM 21 approximately?

11:53AM 22 A He is probably around five-ten.

11:53AM 23 Q Thin, medium, heavy build?

11:53AM 24 A He's slim.

11:53AM 25 Q What about his race or ethnicity?

11:53AM 1 A He was probably mixed Caucasian with Asian or --

11:54AM 2 Q Short hair, long hair, wearing a hat?

11:54AM 3 A I don't -- he wasn't long hair. It was regular, yeah,

11:54AM 4 short -- regular hair.

11:54AM 5 Q All right. So James comes up, and he's by himself at that

11:54AM 6 point or is he the only person you see?

11:54AM 7 A Yeah, he tell me to follow him because he say he going to

11:54AM 8 give me the tax information.

11:54AM 9 Q Right.

11:54AM 10 A So I followed him, and I went to the car. It was big bus,

11:54AM 11 and his car was parked next to the big bus. And then he walked

11:54AM 12 in, and as soon as he opened his back door, he turned around

11:54AM 13 and he showed me a police badge. And he said, You are under

11:54AM 14 arrest. And I said, What for?

11:54AM 15 I thought it was sort of a game, but when he took out

11:54AM 16 handcuff and tried to put the handcuff on me, and I don't know

11:55AM 17 how, but I guess I hitted (sic) that, and then it dropped to

11:55AM 18 the ground.

11:55AM 19 And then there's other guy from driver's side. He

11:55AM 20 dashed to my right side, and he also showed me the police

11:55AM 21 badge. And the two of them grabbed me and then shoved me into

11:55AM 22 the back seat, and they took my hand to the back and they put

11:55AM 23 the two zip tie.

11:55AM 24 Q Zip ties?

11:55AM 25 A Yeah. To my back. And then pushed -- they put a black

11:55AM 1 thick vinyl sack on my head.

11:55AM 2 Q Let me -- let me interrupt you right there for just one

11:55AM 3 second. Pardon me.

11:55AM 4 So I want to ask you a couple of things about when

11:55AM 5 you're still outside the car. Did you notice the type or the

11:55AM 6 model of car or anything about the car that you recall?

11:56AM 7 A I remember it's dark brown, kind of reddish car.

11:56AM 8 Q And so you resisted when the handcuffs they were trying to

11:56AM 9 put on you, correct?

11:56AM 10 A Yeah.

11:56AM 11 Q So you were not actually handcuffed outside the car.

11:56AM 12 A Outside the car they tried to put handcuff, but I guess I

11:56AM 13 hitted (sic) that.

11:56AM 14 Q Okay. Do you have some martial arts training, sir?

11:56AM 15 A Long ago, yes.

11:56AM 16 Q And what was that?

11:56AM 17 A I was instructor when I was in my 20s.

11:56AM 18 Q Did you have certain belts that you had achieved?

11:56AM 19 A I was third -- official third degree, yes.

11:56AM 20 Q And which discipline is this?

11:56AM 21 A I had Korean Taekwondo. And I also had Japanese Karate

11:57AM 22 when I was in South Brazil, yes.

11:57AM 23 Q So were -- did you kind of revert to that when you were

11:57AM 24 resisting in knocking the handcuffs away, as you described?

11:57AM 25 A I didn't practice over 40 or 50 years, but I guess there

11:57AM 1 was some kind of reaction. But at that moment I feel a little
11:57AM 2 suspicious about these people because they show me police
11:57AM 3 badge, and I -- I assumed they had a gun. Yeah. So I say I
11:57AM 4 better not do anything, you know.

11:57AM 5 Q Well, since you mentioned that, let me ask you, did you
11:57AM 6 ever see a gun displayed by either of these people?

11:57AM 7 A No. I only -- while they holding me, they keep poking me
11:57AM 8 with a sharp object. So I assume that he had a knife.

11:57AM 9 Q Now, this second person that came over and also showed you
11:57AM 10 a badge, you said --

11:57AM 11 A Yes.

11:58AM 12 Q -- did you get a look at that person to see kind of what
11:58AM 13 their description was?

11:58AM 14 A He's kind of stocky, either part-Hawaiian or looks Latino,
11:58AM 15 yeah. And he was strong, yeah. He came and put my hand back,
11:58AM 16 and then push my head down and then pushed in to the car, yeah.

11:58AM 17 Q Okay. So when you said -- how did you know you were --
11:58AM 18 there were zip ties that were being used when you were in the
11:58AM 19 car?

11:58AM 20 A They push me down, and then one guy was holding my hand
11:58AM 21 back, and I don't know where they -- probably they already had
11:58AM 22 zip tie in their pocket or somewhere. So they start putting
11:59AM 23 one first, and then they put another one there. And it was so
11:59AM 24 tight, and I just couldn't feel anything. It was so hurt, and
11:59AM 25 then --

11:59AM 1 Q Your hands went numb, is that what you mean?

11:59AM 2 A It was numb all the way, yeah.

11:59AM 3 Q All right. So when I interrupted you, you were telling

11:59AM 4 me -- you said they put a bag over your head?

11:59AM 5 A Yeah, and then they put me -- put the plastic bag, and

11:59AM 6 then wrap around with duct tape, and they put another cloth

11:59AM 7 sack on top of that, and then push me down to -- between the

11:59AM 8 driver's seat and then the back seat. So I would kind of --

11:59AM 9 you know, my head was down there.

11:59AM 10 Q So you couldn't see anything, I'm assuming.

11:59AM 11 A Yeah.

11:59AM 12 Q You could not see anything, is that true?

11:59AM 13 A I couldn't see anything. I couldn't even breathe.

11:59AM 14 Q So were you assaulted in any way at that time?

12:00PM 15 A Yeah. And then all of -- and then right after they closed

12:00PM 16 the door, they turned on the radio at the highest volume, and

12:00PM 17 then they turned the fan real high. And then they start asking

12:00PM 18 me, Where is my money? And I said, What money?

12:00PM 19 And then they start coming with the punch, so they

12:00PM 20 probably hit my face about half a dozen times. And then also

12:00PM 21 my body, yeah.

12:00PM 22 Q You couldn't see any of these punches coming, correct?

12:00PM 23 A I couldn't see any.

12:00PM 24 Q I mean I'm -- this is probably a dumb question, but did it

12:00PM 25 hurt? These are not like just light punches, I'm assuming?

12:00PM 1 A You know, there was a fear, so I didn't feel -- I didn't
12:01PM 2 think about the pain. The more it was that what I should do at
12:01PM 3 this moment. I know at this moment this is real, yeah.

12:01PM 4 Q All right. So before up to that point maybe you weren't
12:01PM 5 sure if this was like some sort of --

12:01PM 6 A So I say I better -- I better make him comfortable. So I
12:01PM 7 just say, Okay, I'll cooperate, yeah. So after they hit me
12:01PM 8 about a dozen times, and they start -- drove around.

12:01PM 9 Q All right. So I notice you're wearing glasses today.

12:01PM 10 A I lost my glasses when we were struggling in the --
12:01PM 11 outside the car.

12:01PM 12 Q So normally you wear glasses all the time?

12:01PM 13 A Right.

12:01PM 14 Q So you were wearing them that day and you lost them during
12:01PM 15 the struggle?

12:01PM 16 A Right, yes.

12:01PM 17 Q So you have the bag over your head, and your glasses are
12:01PM 18 gone now?

12:01PM 19 A The glasses was probably somewhere outside of the car.

12:02PM 20 Q All right. So I know you couldn't see because you had
12:02PM 21 this bag over your head, but did you have any sense of where
12:02PM 22 you were driving or how long you were driving for?

12:02PM 23 A Yeah, it kind of like they were -- first they going to the
12:02PM 24 Ala Moana park, and then maybe going to -- I thought was going
12:02PM 25 to somewhere around University medical school.

12:02PM 1 And then at one time I feel that they were going to
12:02PM 2 the storage. They were asking me, Where you live? Where is
12:02PM 3 your office and do you have a storage? I told them I have
12:02PM 4 storage in the Kamakee Street. And then I gave a key, and then
12:02PM 5 they took my wallet and they already took my car keys, so they
12:02PM 6 had everything. So I thought they were going to the storage to
12:02PM 7 search for something.

12:03PM 8 Q So what about -- you said that they took your wallet, they
12:03PM 9 took your keys. Did you -- you had your phone with you at the
12:03PM 10 time?

12:03PM 11 A They took my phone too.

12:03PM 12 Q All right. So did they continue to ask you for money or
12:03PM 13 what happened after --

12:03PM 14 A They keep saying that, You hide money somewhere, so --

12:03PM 15 Q And what --

12:03PM 16 A -- unless you tell us, you know what going to happen. And
12:03PM 17 they -- they drove me around five and a half hours. And then I
12:03PM 18 believe about six, five or six stops, and some were talking to
12:03PM 19 somebody on the phone. And one time somebody even came into
12:03PM 20 the car, and then I guess checked me, and they went out and
12:03PM 21 they was continued talking.

12:03PM 22 And then every time there was stopover somewhere, they
12:04PM 23 were threatening me. One time they told me, It's final, if you
12:04PM 24 don't tell us, we are going to crack couple of your bones, and
12:04PM 25 we're going to put in the sack, and then sink you in the ocean,

12:04PM 1 yeah. And that time I was really, really nervous. And, I just
12:04PM 2 hold the hand to pray to my God to save my life.

12:04PM 3 THE COURT: Mr. Inciong, we are just at the noon hour
12:04PM 4 now, and it seems like -- I don't want to interrupt, but --

12:04PM 5 MR. INCIONG: Sure, no problem.

12:04PM 6 THE COURT: -- let's go to break for the second break
12:04PM 7 of the day, and then when we resume we'll have a little more
12:04PM 8 than an hour remaining before the end of the trial day.

12:04PM 9 So as we go to break, I remind our 18-person jury to
12:04PM 10 refrain from discussing the substance of this case with anyone,
12:04PM 11 including each other, until I advise otherwise; to refrain from
12:04PM 12 accessing any media or other accounts of this case that may be
12:05PM 13 out there; and also to refrain from conducting any independent
12:05PM 14 investigation into the facts, circumstances or persons
12:05PM 15 involved.

12:05PM 16 So let's try to keep it to about another 15-minute
12:05PM 17 break, and then we will resume.

12:05PM 18 (Proceedings were recessed at 12:05 p.m. to 12:24
12:24PM 19 p.m.)

12:24PM 20 THE COURT: Back from our second break. The record
12:24PM 21 should reflect the return of all jurors, parties and their
12:24PM 22 lawyers.

12:24PM 23 Mr. Inciong, you were in the midst of your direct
12:24PM 24 examination of Mr. Lee. You may continue.

12:25PM 25 MR. INCIONG: Thank you, Your Honor.

12:25PM 1 BY MR. INCIONG:

12:25PM 2 Q Mr. Lee, can you hear me okay?

12:25PM 3 A Yes.

12:25PM 4 Q Okay. When we left off, I believe you had just testified
12:25PM 5 that these two men had threatened to -- was it crack your bones
12:25PM 6 and throw you in the ocean?

12:25PM 7 A Right.

12:25PM 8 Q Are you afraid for your life at this point?

12:25PM 9 A Yes. I was very scared.

12:25PM 10 Q At any point did you wonder like who was involved or why
12:25PM 11 they were doing this to you?

12:25PM 12 A From the beginning when they say, Where is the money, I
12:25PM 13 already assumed that this was hired by Mr. Tony Kim.

12:25PM 14 Q Your former business partner?

12:25PM 15 A Right.

12:25PM 16 Q Who had been hounding you for money for a long time.

12:25PM 17 A The word they were using is very similar to what Mr. Kim
12:25PM 18 was threatening me.

12:25PM 19 Q Okay. Now, you said you felt -- you described kind of
12:25PM 20 where you felt you were being driven around, even though you
12:25PM 21 couldn't see. You've lived in Honolulu for a long time, right?

12:25PM 22 A Right.

12:25PM 23 Q Are you very familiar with that area?

12:25PM 24 A Yes.

12:25PM 25 Q In fact, is your office close by to that area?

12:26PM 1 A Yes.

12:26PM 2 Q Where was your office located at that time?

12:26PM 3 A My office was located on near Queen Street on Kamakee

12:26PM 4 Street.

12:26PM 5 Q Does that building have a name?

12:26PM 6 A I believe it's Malulani Building.

12:26PM 7 Q Is it known for another business that's in that building?

12:26PM 8 A It's right across from street diagonally is the Whole Food
12:26PM 9 Market.

12:26PM 10 Q I see. Is there a Lin's Snacks --

12:26PM 11 A Lin's Snacks, right.

12:26PM 12 Q -- business in that same building?

12:26PM 13 A Right.

12:26PM 14 Q Do you have parking in that building?

12:26PM 15 A Yes, it has parking right next to the building.

12:26PM 16 Q Where would you park when you were at work?

12:26PM 17 A Mostly park either there or I park Whole Foods store
12:26PM 18 parking lot.

12:26PM 19 Q I see. Okay. So did you have any conversation with the
12:26PM 20 two men that were holding you in the car as you were being
12:26PM 21 driven around?

12:26PM 22 A Yes.

12:26PM 23 Q What kinds of things did you tell them?

12:27PM 24 A The one sitting next to me was holding me down all the
12:27PM 25 time. Even the driver was keep going out -- every time it stop

12:27PM 1 somewhere he going out, and then he was talking to somebody on
12:27PM 2 the phone.

12:27PM 3 And then the person next to me was there. So couple
12:27PM 4 of times I told him to release some of the duct tape because I
12:27PM 5 cannot breathe. So he tried to open a little space so I can
12:27PM 6 get fresh air.

12:27PM 7 And then I guess he -- he had my wallet, and then I
12:27PM 8 just made the deposit of \$5,700 that day. So he saw that. So
12:27PM 9 one time -- at one point I negotiated with him. I told him,
12:28PM 10 This is all I have. I have 3,000 credit limit on my charge
12:28PM 11 card, so you can have all that. That's most I can offer.

12:28PM 12 So -- and then at one point I had to breathe myself,
12:28PM 13 so I had to lean on the -- I mean the chair of the driver's
12:28PM 14 seat to use my teeth to bite the inner sack to make a hole to
12:28PM 15 get fresh air.

12:28PM 16 Q So you could breathe.

12:28PM 17 A Yeah. And then I was doing that, and then the hole was
12:28PM 18 getting bigger and bigger, and I was able to see the outside.
12:28PM 19 And a couple of times I saw tall building while the car was
12:29PM 20 parked somewhere, yeah.

12:29PM 21 And then the guy sitting next to me saw that, so he
12:29PM 22 said, What are you doing? And I said, I trying to get some
12:29PM 23 fresh air. And then he came and choke my neck for probably one
12:29PM 24 minute or two. I was almost fainted. And then luckily the
12:29PM 25 driver came, and he said, Take it easy. You know, so he

12:29PM 1 released his hand.

12:29PM 2 Q Okay. Scary.

12:29PM 3 A Yeah, it was very scary.

12:29PM 4 Q So you were offering you said money, what you had in your
12:29PM 5 checking account and your charge card as an offer to get them
12:29PM 6 to release you, is that what you meant?

12:29PM 7 A I just talked to him, and then I guess one time he went
12:29PM 8 out and talked to the driver or somebody, and they drove me
12:30PM 9 around and threatening all kinds of threats. And then finally,
12:30PM 10 they say, Okay, we will let you go. And when I heard that, oh,
12:30PM 11 gee, it was -- I was crying.

12:30PM 12 And then -- so they brought back to the Kewalo Basin,
12:30PM 13 and they took out my sack first. And then they start putting
12:30PM 14 duct tape around my face and my head. And then the guy sitting
12:30PM 15 next to me, he took out a knife and he start cutting the zip
12:30PM 16 tie. And it was -- I guess knife was very dull knife, it was
12:31PM 17 so hurt. It took probably ten -- more than ten minutes to cut
12:31PM 18 that off.

12:31PM 19 And then I had -- and by then I kind of feel little
12:31PM 20 relieved. And then I saw they didn't cover my eye. So I told
12:31PM 21 them, Hey, I can see you. So they came back and then they put
12:31PM 22 more duct tape on my head. And when I -- my hand was freed, I
12:31PM 23 start touching my face, and I told myself, Oh, gee, you guys
12:31PM 24 must be -- broke my nose. And I guess that made the guy upset,
12:31PM 25 so he came with couple more punches on my head, yeah. I

12:31PM 1 shouldn't say that, but it was -- at that moment I kind of was
12:31PM 2 relieved.

12:32PM 3 Q So when they took the bag and the hood off your head and
12:32PM 4 before they duct-taped you, were you able to see either of them
12:32PM 5 again?

12:32PM 6 A It was dark.

12:32PM 7 Q I see. Okay. So let me ask you about the time because
12:32PM 8 you said you had --

12:32PM 9 A It was probably around 9:00 or 9:30, yeah.

12:32PM 10 Q So you estimated that you were driven around for about six
12:32PM 11 hours?

12:32PM 12 A Probably.

12:32PM 13 Q So how did you judge the time? How did you come up with
12:32PM 14 that time?

12:32PM 15 A Because I left the bank at around 3:30, and they released
12:32PM 16 me at around 9:30, I believe.

12:32PM 17 Q So after you were released, you checked the time?

12:32PM 18 A And they took me out of the car and brought me to my car,
12:32PM 19 and I couldn't see, so I had to touch the car, and then went to
12:32PM 20 the driver's side and I opened the door and got in there.

12:32PM 21 And then the guy, I guess the driver or somebody, one
12:33PM 22 of them came to the passenger side, opened the door and throw
12:33PM 23 car key and my wallet, my cell phone, and everything that I had
12:33PM 24 in pocket, they throw in there, and told me not to start the
12:33PM 25 car until we disappear.

12:33PM 1 So I was just sitting there -- oh, before that, before
12:33PM 2 they released me, they punched me maybe five, six times on the
12:33PM 3 face and then my chest, and told me not to report to the
12:33PM 4 police. So I said, I'm not going to report to the police. And
12:33PM 5 they say, If you do that, we have a lot of brothers who will
12:33PM 6 take care of you. So I said, Don't worry.

12:33PM 7 So they just took me to the car and then put me there,
12:34PM 8 and throw the key, and then they left. But I cannot see
12:34PM 9 because I don't -- I didn't have eyeglasses.

12:34PM 10 Q Right.

12:34PM 11 A And then all of a sudden, he -- it looks like my body is
12:34PM 12 getting relaxed, and I locked the car but I didn't start the
12:34PM 13 car. I just put the key in the hole and then I sat there for
12:34PM 14 probably about ten minutes, and then I start taking off the
12:34PM 15 duct tape.

12:34PM 16 Q So they were gone when you took the duct tape off?

12:34PM 17 A And by then they all gone.

12:34PM 18 Q So where did you go from there?

12:34PM 19 A So took me about 10, 15 minutes to just take out all of
12:34PM 20 the duct tape, I saved that. And then I start driving along
12:34PM 21 the Ward Avenue and I'm going home.

12:35PM 22 Q Without your glasses?

12:35PM 23 A Without my glasses. Taking the right lane slowly, I drove
12:35PM 24 up to Punchbowl and got to my apartment, parked my car there,
12:35PM 25 and I walked to my apartment. And I don't want my wife to see

12:35PM 1 this, so I tried to go in there quietly and just take a shower
12:35PM 2 and then go to my room and then go to bed. As soon as I opened
12:35PM 3 the door, my wife heard, so she came out of her room, and as
12:35PM 4 soon as she saw me, she was -- screamed.

12:36PM 5 Q Take your time.

12:36PM 6 A And then she said, What happened? And I say, I had a
12:36PM 7 fight. So -- and she say, No, you cannot go to your room. You
12:36PM 8 got to go to emergency. So she took me to Straub emergency
12:36PM 9 room.

12:36PM 10 So I got there, and then the nurse started asking me
12:36PM 11 questions, and my wife told them, I think probably he was
12:36PM 12 beaten by somebody, yeah. And then -- but she never seen me,
12:36PM 13 you know, with that much -- the bruises. So I guess probably
12:37PM 14 somebody in the hospital reported to the police.

12:37PM 15 So there was four police officers came and then there
12:37PM 16 was one detective came, and they start questioning me. So I --
12:37PM 17 I cannot lie, so I have to tell what happened there, yeah. So
12:37PM 18 I told all the stories. And then they took x-ray of my body,
12:37PM 19 my face, and everything, and luckily, nothing was broken.
12:37PM 20 So -- yeah.

12:37PM 21 Q When you were first asked what happened at the hospital,
12:37PM 22 were you afraid to tell them what had actually happened?

12:37PM 23 A Yeah. I was, yeah.

12:37PM 24 Q Why?

12:37PM 25 A Somehow at that moment I don't know what's going to happen

12:38PM 1 there, and I don't know who did this, so I told myself I better
12:38PM 2 not say anything. So I didn't -- I only described what
12:38PM 3 happened briefly to the detective, yeah.

12:38PM 4 And then following next day when the news media called
12:38PM 5 and they came to our apartment, but I rejected all of them. I
12:38PM 6 didn't tell this story to anybody. All I told is to my family.

12:38PM 7 Q Okay.

12:38PM 8 A And next day I say, I better go someplace else. So I
12:38PM 9 hired the massage guy to come over and then do the massage on
12:38PM 10 my face to release all this bruises, the redness and all the
12:38PM 11 blue spots. And I prescribed pair of eyeglass, and I just went
12:39PM 12 to my daughter's place and -- in LA, and when -- she was eight

12:39PM 13 months pregnant at the time when I got there, and she was --

12:39PM 14 Q Take your time, Mr. Lee.

12:39PM 15 A I felt very sorry to my daughter, but she took good care
12:40PM 16 of me. So I was there for probably about ten days. And then
12:40PM 17 she told me not to go back to Honolulu, but I say I have to go
12:40PM 18 back because I have appointment with detectives and I have to
12:40PM 19 go see doctors.

12:40PM 20 So she called my son, and my son was teaching at the
12:40PM 21 University in Milwaukee and he has to take one week off to come
12:40PM 22 to LA to bring me to Honolulu. So we came here and he took me
12:41PM 23 to police department and -- next day. And so the police did
12:41PM 24 forensic on my cell phone, and there was a sketch of suspect.

12:41PM 25 And while we were doing there, it took too long. So

12:41PM 1 my trauma was keep building and I just collapsed there. So
12:41PM 2 detective called my son to take me to Straub Clinic right next
12:41PM 3 door. So he took me to there, and while doctor was checking
12:41PM 4 me, I collapsed again there. I just totally fainted. And so
12:41PM 5 it was -- it was just horrible, yeah.

12:41PM 6 Q So when you came back from visiting your daughter, did you
12:41PM 7 tell the police then the full -- the full story at that time?

12:42PM 8 A Yeah, when the detective was interviewing me, yeah, and I
12:42PM 9 went over again with him, yes.

12:42PM 10 Q And did you tell them who you suspected was behind these
12:42PM 11 men kidnapping you?

12:42PM 12 A Yes, I did.

12:42PM 13 Q And who was that?

12:42PM 14 A I -- I knew this was happening from Mr. Tony Kim, so I
12:42PM 15 gave a lot of information about Tony Kim to detective, yes,
12:42PM 16 including his picture.

12:42PM 17 Q So while you were gone, did the police department do some
12:42PM 18 testing on your vehicle, the vehicle that you had driven?

12:42PM 19 A Yeah, they -- my wife told me they came and they did
12:42PM 20 fingerprint on the doors, and then also they took the duct
12:42PM 21 tape.

12:42PM 22 Q Had anybody -- had you or anybody else that you're aware
12:43PM 23 of touched or disturbed that duct tape since you had --

12:43PM 24 A No.

12:43PM 25 Q -- taken it off?

12:43PM 1 A No.

12:43PM 2 Q Okay. Do you have any lasting effects from what happened
12:43PM 3 that day?

12:43PM 4 A I guess this is probably everything, yeah.

12:43PM 5 Q Let me show you a few pictures that have been admitted
12:43PM 6 into evidence already, if you don't mind, Mr. Lee.

12:43PM 7 MR. INCIONG: If we could start with Government's
12:43PM 8 Exhibit 5-4, which has been already submitted into evidence.

12:43PM 9 BY MR. INCIONG:

12:43PM 10 Q Is that a picture of you the day that you went to the
12:43PM 11 hospital on October 17th, 2017?

12:43PM 12 A Yes.

12:43PM 13 MR. INCIONG: If we could then show Mr. Lee
12:43PM 14 Exhibit 5-5.

12:43PM 15 BY MR. INCIONG:

12:43PM 16 Q Do you recognize that picture?

12:43PM 17 A Yes.

12:43PM 18 Q Is that your arm and shoulder?

12:44PM 19 A Yes.

12:44PM 20 Q What parts of your body showed injuries there?

12:44PM 21 A It was my neck, and shoulder and my arm, and also my body.

12:44PM 22 Q So one thing I want to make sure I have clear too is the
12:44PM 23 two men, you said one was in the back seat with you holding you
12:44PM 24 down, correct?

12:44PM 25 A Right.

12:44PM 1 Q Did that person ever leave the car during the time you
12:44PM 2 were --

12:44PM 3 A I guess he did once, maybe.

12:44PM 4 Q Okay. The other person then was obviously driving the
12:44PM 5 car?

12:44PM 6 A Yeah, he was just -- other than driving, he was going out
12:44PM 7 and then talking to somebody on the phone. And then there was
12:44PM 8 I guess once or twice they opened the back door and they show
12:44PM 9 me to somebody, yeah, because I hear different voices.

12:44PM 10 Q I see. So which one was James, the one who introduced --

12:45PM 11 A James was sitting next to me.

12:45PM 12 Q Okay. So he's the more slightly built person?

12:45PM 13 A Yes.

12:45PM 14 Q The more heavy set person, the stocky person you
12:45PM 15 described, that was the driver?

12:45PM 16 A The driver was kind of stocky, yeah. And he was kind of
12:45PM 17 mean, yeah.

12:45PM 18 Q Let me have you look at Exhibit 5-6 next, please.

12:45PM 19 Mr. Lee, that's your left hand at the hospital that
12:45PM 20 night?

12:45PM 21 A Yes.

12:45PM 22 Q What is that showing there?

12:45PM 23 A The bruises. I guess mostly from the zip tie was tight.
12:45PM 24 It was too tight so the blood was not circulating.

12:45PM 25 Q So are you referring to the area around your wrist --

12:45PM 1 MR. INCIONG: Maybe we can zoom in on that.

12:45PM 2 BY MR. INCIONG:

12:45PM 3 Q The area just above your hand, the wrist area, is that
12:45PM 4 where you were -- the zip ties were placed in that general
12:46PM 5 area?

12:46PM 6 A Right.

12:46PM 7 MR. INCIONG: Could we display Exhibit 5-7, please.

12:46PM 8 BY MR. INCIONG:

12:46PM 9 Q This is your palm of that same hand. What do you notice
12:46PM 10 on there that was not there before you were kidnapped?

12:46PM 11 A No.

12:46PM 12 Q Do you notice any injuries on this that you see?

12:46PM 13 A I guess it was so tight, there is no blood circulation,
12:46PM 14 and then when they released that, I guess the hand was all red.

12:46PM 15 MR. INCIONG: Can we zoom in again on his wrist area,
12:46PM 16 please.

12:46PM 17 BY MR. INCIONG:

12:46PM 18 Q It looks like there's two lines, indentations in your skin
12:46PM 19 there. Is that -- am I seeing that correctly?

12:46PM 20 A I guess the zip tie was probably one there and then one
12:46PM 21 was above that.

12:46PM 22 Q Okay. That's where you were --

12:46PM 23 A Yeah.

12:46PM 24 Q That's where you felt they were restraining you with the
12:47PM 25 zip ties?

12:47PM 1 A Right.

12:47PM 2 MR. INCIONG: Can we show Mr. Lee Exhibit 5-8 next,
12:47PM 3 please?

12:47PM 4 BY MR. INCIONG:

12:47PM 5 Q And this is now your right arm and hand. There is a
12:47PM 6 scrape there just above your wrist. Was that there before you
12:47PM 7 were kidnapped?

12:47PM 8 A No.

12:47PM 9 Q Is that from the zip ties as well?

12:47PM 10 A Right.

12:47PM 11 MR. INCIONG: If we can go to Exhibit 5-9, please.

12:47PM 12 And if we can zoom in a little bit on the wrist area again.

12:47PM 13 BY MR. INCIONG:

12:47PM 14 Q Again, those look like those same two indentations like on
12:47PM 15 the other wrist; is that correct?

12:47PM 16 A Yeah. That was zip tie, yeah.

12:47PM 17 MR. INCIONG: Can we show Mr. Lee Exhibit 5-10,
12:47PM 18 please.

12:47PM 19 BY MR. INCIONG:

12:47PM 20 Q What do you see that catches your eye in this picture,
12:47PM 21 Mr. Lee?

12:48PM 22 A Yeah, all around my neck and then my shoulder.

12:48PM 23 Q And then if I can have you look at two more in this
12:48PM 24 series, please, 5-11. Does that show you at the hospital on
12:48PM 25 that night?

12:48PM 1 A Yes.

12:48PM 2 Q And the bruises all over your face are from when you were
12:48PM 3 being punched?

12:48PM 4 A Right.

12:48PM 5 Q And then 5-12, please. Does this show you from the left
12:48PM 6 side the bruising?

12:48PM 7 A On my cheek and the nose and my jaw, yeah. And even my
12:48PM 8 forehead.

12:48PM 9 Q But what kind -- what kind of tests did they -- to see if
12:48PM 10 you had any broken bones or nose or anything that night?

12:48PM 11 A They did the x-ray.

12:48PM 12 Q It was all negative?

12:48PM 13 A Yeah.

12:48PM 14 MR. INCIONG: All right. Can we go to 5-13, please.

12:48PM 15 BY MR. INCIONG:

12:49PM 16 Q Do you recognize this photo, Mr. Lee?

12:49PM 17 A Yes.

12:49PM 18 Q How do you recognize that?

12:49PM 19 A That's the old Fisherman's Wharf site.

12:49PM 20 Q Is that where you met the person named James?

12:49PM 21 A Yes.

12:49PM 22 Q So it was not dark when you arrived, but it was dark when
12:49PM 23 you left?

12:49PM 24 A Yes. When I got there it was only about 4:00 in the
12:49PM 25 afternoon, but I guess this is even after -- you know.

12:49PM 1 Q Let me have you look at Exhibit 5-15, please.

12:49PM 2 Do you recognize this picture?

12:49PM 3 A Yes.

12:49PM 4 Q How do you recognize that?

12:49PM 5 A It's part of Kewalo Basin.

12:49PM 6 Q Is this near where you parked your car when you met James?

12:49PM 7 A Somewhere around there, yeah, on the right.

12:49PM 8 Q On the right side.

12:49PM 9 A Yeah.

12:49PM 10 Q Let me see if we have a closer view to have you look at.

12:50PM 11 MR. INCIONG: 5-16, please.

12:50PM 12 BY MR. INCIONG:

12:50PM 13 Q Does that look familiar?

12:50PM 14 A Yes.

12:50PM 15 Q Is this the part -- the area roughly where you --

12:50PM 16 A That's part of that area.

12:50PM 17 Q You mentioned there were buses and vans parked in that

12:50PM 18 area.

12:50PM 19 A Yes.

12:50PM 20 Q Are those the same type that you see there in this

12:50PM 21 picture?

12:50PM 22 A Yeah. I guess some of the buses left already by then.

12:50PM 23 Q Okay. So there were buses which you arrived earlier?

12:50PM 24 A Correct.

12:50PM 25 Q Now, Mr. Lee, you mentioned before that your hands were

12:50PM 1 numb, you said from the zip ties. Did that last any longer?

12:50PM 2 A That last about a year, and even today I'm not able to
12:50PM 3 feel something. It's probably permanently damaged to my hand.

12:50PM 4 Q You're wearing a hearing aid today?

12:50PM 5 A I do.

12:50PM 6 Q Did you wear hearing aids before the --

12:51PM 7 A No. It was after, yeah. I just had people keep
12:51PM 8 complaining about my hearing issue. So I have to buy a pair
12:51PM 9 from Costco. It was the year before last year. Probably
12:51PM 10 around about three years, yeah.

12:51PM 11 Q Now, I know you are 78 now, correct? How old were you at
12:51PM 12 the time this happened?

12:51PM 13 A I was 72.

12:51PM 14 Q Do you feel safe when you go out and about running errands
12:51PM 15 or parking lots or anything like that anymore?

12:51PM 16 A No, I still carrying pepper spray and whistle. And every
12:52PM 17 time I go to some parking structure I have that fear, so I have
12:52PM 18 to -- I cannot park anywhere. I want to park in front of the
12:52PM 19 store or somewhere, and avoid -- if there is some strangers
12:52PM 20 sitting in the car, then I don't park and I just move around.

12:52PM 21 Q The last question I have for you, Mr. Lee, is I want to
12:52PM 22 circle back, I think you had mentioned in one of the final
12:52PM 23 payments that you made to Mr. Kim --

12:52PM 24 A Right.

12:52PM 25 Q -- that you said you had to deliver it to him?

12:52PM 1 A Yeah, I delivered to his store and gave to his wife.

12:52PM 2 Q What store was that, do you recall?

12:52PM 3 A It's Ala Moana Golf Shop.

12:52PM 4 Q And was he running that store the whole time that you were
12:52PM 5 in business with him?

12:52PM 6 A Yeah, they were -- they were running that business.

12:52PM 7 MR. INCIONG: All right. Thank you so much, Mr. Lee.

12:52PM 8 I have no further questions.

12:52PM 9 THE COURT: Okay. Cross-examination.

12:52PM 10 CROSS-EXAMINATION

12:52PM 11 BY MR. KENNEDY:

12:53PM 12 Q Good afternoon, Mr. Lee.

12:53PM 13 A Good afternoon.

12:53PM 14 Q I want to ask you some questions about this horrific
12:53PM 15 event, okay?

12:53PM 16 A Sure.

12:53PM 17 Q The first question I want to ask you about is Tony Kim.
12:53PM 18 Now, I'll go through some facts with him, but I heard that you
12:53PM 19 went to the authorities and gave a picture of him. Do you
12:53PM 20 recall that?

12:53PM 21 A Picture of who?

12:53PM 22 Q Of Mr. Kim, Tony Kim.

12:53PM 23 A Yeah. Right.

12:53PM 24 Q Did you give that to the FBI?

12:53PM 25 A I gave to police.

12:53PM 1 Q You gave it to Honolulu Police Department?

12:53PM 2 A It was not only his picture, it was a picture of when we
12:53PM 3 had opening ceremony of our company. He was there, yes. So it
12:54PM 4 has picture of about ten people, and he was one of them, yeah.
12:54PM 5 So ...

12:54PM 6 Q I see. So if we just circle back a little bit with him,
12:54PM 7 because it seems to me from the moment these two men who did
12:54PM 8 this to you, you believed Mr. Kim was behind this, correct?

12:54PM 9 A Yes.

12:54PM 10 Q Okay. So as I understand it -- I want to circle a little
12:54PM 11 bit back. You were born and grew up a few years in China,
12:54PM 12 correct?

12:54PM 13 A Right.

12:54PM 14 Q Then moved to Korea?

12:54PM 15 A Right.

12:54PM 16 Q Then moved to Brazil?

12:54PM 17 A Right.

12:54PM 18 Q And made it to Hawaii?

12:54PM 19 A Right.

12:54PM 20 Q And educated yourself here?

12:54PM 21 A Right.

12:54PM 22 Q Became a CPA?

12:54PM 23 A Yes.

12:54PM 24 Q Became a professional?

12:54PM 25 A Yes.

12:54PM 1 Q And you had a business where you employed other

12:55PM 2 professionals as well?

12:55PM 3 A Right.

12:55PM 4 Q And you had the idea to form Atlas Steel, right?

12:55PM 5 A Right.

12:55PM 6 Q And that was a business that would be your own, right?

12:55PM 7 A Yes, started with, yeah, my own.

12:55PM 8 Q So instead of just helping other people with their needs

12:55PM 9 as an accountant, you would have something that you started

12:55PM 10 that would be yours, right?

12:55PM 11 A Right.

12:55PM 12 Q And so as I understand it, it provided steel frame

12:55PM 13 construction products, right?

12:55PM 14 A That's correct.

12:55PM 15 Q Because termites do real damage to wood and wood homes

12:55PM 16 here, right?

12:55PM 17 A That's correct.

12:55PM 18 Q So you believed that this product would be an excellent

12:55PM 19 way to have your business here, right?

12:55PM 20 A Right.

12:55PM 21 Q And so you purchased a machine from South Korea?

12:55PM 22 A First one, yes, we did.

12:55PM 23 Q And that cost you about 300,000, right?

12:55PM 24 A That's correct.

12:55PM 25 Q And so then you started looking around for a way to ship

12:56PM 1 that machine to Hawaii, right?

12:56PM 2 A Right.

12:56PM 3 Q And you accomplished that, right?

12:56PM 4 A Yes.

12:56PM 5 Q And so at that time you leased about a 50,000-square-foot

12:56PM 6 facility after starting out in a smaller place in Sand Island,

12:56PM 7 right?

12:56PM 8 A In Mapunapuna, yes.

12:56PM 9 Q And at that point you had about six to ten employees?

12:56PM 10 A Beg your pardon?

12:56PM 11 Q At the time you were at the Sand Island warehouse you had

12:56PM 12 about six to ten employees?

12:56PM 13 A Employees?

12:56PM 14 Q Yes.

12:56PM 15 A I believe, yes. So, yeah.

12:56PM 16 Q And so at that time you had two other investors, right?

12:56PM 17 A Yes.

12:56PM 18 Q And so you said that you had invested about 450,000 of

12:56PM 19 your hard earned money, right?

12:56PM 20 A Right.

12:56PM 21 Q And there was another individual who invested about

12:56PM 22 150,000 of his money?

12:57PM 23 A Right.

12:57PM 24 Q And what I want to focus in on here is Mr. Kim, he

12:57PM 25 invested about 450,000 of his money, right?

12:57PM 1 A Right.

12:57PM 2 Q Now, that 450,000 that you invested was pretty much all
12:57PM 3 the money that you had at that time, right?

12:57PM 4 A That's correct.

12:57PM 5 Q Now, Mr. Kim was in a different situation, right, because
12:57PM 6 he was a pretty wealthy individual, right?

12:57PM 7 A Right.

12:57PM 8 Q He had made his money selling designer products, right?

12:57PM 9 A That's correct.

12:57PM 10 Q Over at the Hyatt hotel in Waikiki?

12:57PM 11 A Yes.

12:57PM 12 Q And I think you said that this would be like -- what he
12:57PM 13 lost was maybe like 10 percent of what he had, right?

12:57PM 14 A That's correct.

12:57PM 15 Q But you had lost eventually everything, right?

12:57PM 16 A Right.

12:57PM 17 Q But even though you had lost everything, this man wanted
12:57PM 18 his money back, right?

12:57PM 19 A That's right.

12:57PM 20 Q Okay. And so Mr. Kim's company was called K&K
12:58PM 21 International, right?

12:58PM 22 A That's correct.

12:58PM 23 Q And you mentioned he also had a golf shop in the Ala Moana
12:58PM 24 mall, right?

12:58PM 25 A Yes.

12:58PM 1 Q And he invested in real estate here?

12:58PM 2 A Yes.

12:58PM 3 Q And he had a number of other businesses there, right?

12:58PM 4 A I believe so.

12:58PM 5 Q Okay. Now, eventually what happened is that smaller

12:58PM 6 business had to close and a mainland company came to Hawaii to

12:58PM 7 compete with you, right?

12:58PM 8 A Right.

12:58PM 9 Q And you tried over time to compete with them as best you

12:58PM 10 could, right?

12:58PM 11 A That's correct.

12:58PM 12 Q And I'm certain that Mr. Kim was involved in those

12:58PM 13 decisions, right?

12:58PM 14 A Right.

12:58PM 15 Q So he knew that this mainland company had come, so it

12:58PM 16 wasn't because you and your employees weren't doing everything

12:58PM 17 that you could to make money, right?

12:58PM 18 A That's correct.

12:58PM 19 Q But every time you invest in a business, there's risks,

12:58PM 20 right?

12:58PM 21 A That's true.

12:58PM 22 Q And you have to have some luck too, correct?

12:59PM 23 A Right.

12:59PM 24 Q Right place, right time, even though you try as hard as

12:59PM 25 you can, right?

12:59PM 1 A That's correct.

12:59PM 2 Q And so you filed for bankruptcy first in Chapter 11,
12:59PM 3 right?

12:59PM 4 A Right.

12:59PM 5 Q And some of the folks here, Chapter 11 allows you to --
12:59PM 6 they use the word reorganize, right?

12:59PM 7 A That's correct.

12:59PM 8 Q In many ways you get to go to the people that you owe
12:59PM 9 money to and you say, Hey, it's better for all of us if we just
12:59PM 10 reduce the debt that we owe a little bit because you'll make
12:59PM 11 more money in the end if you do that, right?

12:59PM 12 A Right.

12:59PM 13 Q And if they agree to that, then you can go forward in
12:59PM 14 business?

12:59PM 15 A That's correct.

12:59PM 16 Q The alternative is you shut down, and then everybody
12:59PM 17 loses, and your employees don't have jobs and they don't get
12:59PM 18 their money paid back, right?

12:59PM 19 A That's correct.

12:59PM 20 Q So that's what that process is, right?

12:59PM 21 A That's right.

12:59PM 22 Q So you tried that, I believe you said for a number of
12:59PM 23 months, maybe five to six months?

12:59PM 24 A Five months.

12:59PM 25 Q Okay. And then at that point it just became clear that

01:00PM 1 you couldn't make a go of it, right?

01:00PM 2 A Yes. At that moment all pressure is -- some pressure was
01:00PM 3 released, yeah, and we were able to move to the smaller place
01:00PM 4 with a smaller operation expenses, yeah. So we were able to
01:00PM 5 maintain, so we got out of Chapter 11.

01:00PM 6 Q So now the bigger place on the Sand Island, you had a
01:00PM 7 ten-year lease, right?

01:00PM 8 A I had ten -- nine-year lease.

01:00PM 9 Q A nine-year lease. And then you had used the warehouse
01:00PM 10 for about five years then, right?

01:00PM 11 A We used five years, right.

01:00PM 12 Q And so when you moved to this smaller place, you had to
01:00PM 13 break the lease, right?

01:00PM 14 A Right.

01:00PM 15 Q And so when you break the lease, what happened is the
01:00PM 16 folks who had the lease sued Atlas Steel.

01:00PM 17 A That's correct.

01:00PM 18 Q So they sued you, right?

01:01PM 19 A Right.

01:01PM 20 Q They sued Mr. Kim?

01:01PM 21 A Right.

01:01PM 22 Q And was this third individual now no longer with you?

01:01PM 23 A He was no longer with us.

01:01PM 24 Q So it was just the two of you.

01:01PM 25 A Two of us.

01:01PM 1 Q Okay. And so that company that sued you for the lease,
01:01PM 2 they wanted millions of dollars, right?

01:01PM 3 A I guess so, yeah. The back rent. They were asking for
01:01PM 4 back rent plus the future rent, right.

01:01PM 5 Q So they wanted what you would have paid them and they
01:01PM 6 wanted the money from -- that you hadn't paid them?

01:01PM 7 A Yeah, we couldn't pay that amount, yeah.

01:01PM 8 Q Oh, I understand.

01:01PM 9 A Yeah, so we moved to the smaller place.

01:01PM 10 Q And so at that time Mr. Kim accused you of stealing the
01:01PM 11 money, that's why you couldn't pay, right?

01:01PM 12 A Yes, he was -- he was keep saying that he went to see
01:02PM 13 fortune teller, and fortune teller told him that your partner
01:02PM 14 is stealing money, yeah.

01:02PM 15 Q So that was the first time he went to this fortune teller
01:02PM 16 who said you're stealing from him, and he was accusing you of a
01:02PM 17 crime?

01:02PM 18 A He went to see the fortune teller and he told me the
01:02PM 19 fortune teller told him that his partner is stealing money.
01:02PM 20 And I say, We don't have -- we dealing with mostly construction
01:02PM 21 company and big contractor. We don't get cash. It's all
01:02PM 22 check.

01:02PM 23 And we have bookkeepers, we have managers there, yeah.
01:02PM 24 So I told him I work here more than full time, and I didn't get
01:02PM 25 any salary from there, yeah. So he knows, but he just

01:02PM 1 pretending to -- that's his person -- personality, yeah. He
01:03PM 2 has been doing that for all the time.

01:03PM 3 Q He was extremely upset?

01:03PM 4 A Mr. Kim?

01:03PM 5 Q Yes.

01:03PM 6 A I'm not sure because he always doing that, so I cannot
01:03PM 7 tell.

01:03PM 8 Q That's his nature?

01:03PM 9 A That's his nature.

01:03PM 10 Q All right. So eventually he also had I believe a
01:03PM 11 \$2 million property over on Dowsett Avenue that the bank
01:03PM 12 foreclosed on. Do you recall that?

01:03PM 13 A We had SBA loan.

01:03PM 14 Q An SBA loan, Small Business --

01:03PM 15 A Yeah, Small Business Administration.

01:03PM 16 Q I apologize, I spoke over you.

01:03PM 17 A It actually came from bank, and SBA was guaranteed the
01:04PM 18 loan. And Mr. Kim was guarantor, yeah. So we used that money
01:04PM 19 to purchase our second machine, yeah.

01:04PM 20 Q And so that particular loan eventually was foreclosed as
01:04PM 21 well?

01:04PM 22 A Yes.

01:04PM 23 Q And he lost money on that?

01:04PM 24 A He has to pay off that loan.

01:04PM 25 Q Right. So he was able to pay it off because he owed the

01:04PM 1 money, and he had the money to pay back --

01:04PM 2 A Right.

01:04PM 3 Q -- when you wouldn't have, right?

01:04PM 4 A Right.

01:04PM 5 Q So, at this point in time you begin to receive threats
01:04PM 6 from Mr. Kim, correct?

01:04PM 7 A I'm not sure when the actual threat was started.

01:05PM 8 Q That's fine. At some point in time in this what we're
01:05PM 9 talking about here, text messages started coming in from
01:05PM 10 Mr. Kim that were threats?

01:05PM 11 A Was probably started from around 2015.

01:05PM 12 Q All right. So in 2015 he's sending you text messages
01:05PM 13 which are threats?

01:05PM 14 A Yeah, he was threatening all kinds of things, even saying
01:05PM 15 something to my grandchildren. Yeah.

01:05PM 16 Q I understand, and we'll get to that particular threat.

01:05PM 17 So in 2015, do you have the same phone that these
01:05PM 18 folks saw earlier today that was seized during this kidnapping?

01:06PM 19 A Yeah, we printed out -- my daughter printed out -- it was
01:06PM 20 Korean, so she translated, and we gave that to detective,
01:06PM 21 Honolulu Police Department.

01:06PM 22 Q I see. So you took these threats that were text messages
01:06PM 23 and gave them to the Honolulu Police Department?

01:06PM 24 A Yes.

01:06PM 25 Q Also I believe during that time period you were also

01:06PM 1 receiving phone calls which were threats, right, from Mr. Kim?

01:06PM 2 A That's correct.

01:06PM 3 Q And were you able to record any of those and give those to
01:06PM 4 the authorities?

01:06PM 5 A It's a cell phone, so I guess the phone conversation was
01:06PM 6 not recorded.

01:06PM 7 Q But you had the text messages?

01:06PM 8 A Text messages, yes.

01:06PM 9 Q And as I understand this, this went on for a year or more,
01:07PM 10 right?

01:07PM 11 A More, yes.

01:07PM 12 Q And so this man, Mr. Kim has been sending you text
01:07PM 13 messages, calling you and threatening you for a year or more?

01:07PM 14 A Right.

01:07PM 15 Q And these threats were personal to you, right?

01:07PM 16 A Beg your pardon?

01:07PM 17 Q To do physical injury to you, right?

01:07PM 18 A No, it was -- I don't think -- although he is tall --

01:07PM 19 Q Yeah.

01:07PM 20 A -- but sometimes he -- he kind of feel inferior.

01:07PM 21 Q I see.

01:07PM 22 A Yeah. So he didn't give me physical contact, but he was
01:07PM 23 carrying bag with something heavy. He was knocking that on the
01:07PM 24 table and then he was threatening me, yeah, saying, Do you know
01:07PM 25 what's in here?

01:07PM 1 Q So I think what you're describing is something that, if I
01:08PM 2 understand it right, one of these times that he visited you at
01:08PM 3 the office, you ended up going to the South Shore marketplace,
01:08PM 4 right?

01:08PM 5 A That's correct.

01:08PM 6 Q And the two of you were sitting outside at a table, right?

01:08PM 7 A Right.

01:08PM 8 Q And he had a bag, correct?

01:08PM 9 A Right.

01:08PM 10 Q And you knew that there was something heavy in the bag --

01:08PM 11 A Right.

01:08PM 12 Q -- because you could see it lift up, and he pounded it on
01:08PM 13 the ground -- on the table, right?

01:08PM 14 A That's right.

01:08PM 15 Q And you believed that he might have a gun or a weapon in
01:08PM 16 that bag when this was happening, right?

01:08PM 17 A Yeah, I'm not sure, but it was --

01:08PM 18 Q You couldn't see through the bag?

01:08PM 19 A That's -- yeah.

01:08PM 20 Q You could hear it, right?

01:08PM 21 A Right, I can hear.

01:08PM 22 Q And he was using it in a threatening manner, right?

01:08PM 23 A Yes.

01:08PM 24 Q And this is a man who told you that he had dreams that
01:08PM 25 your granddaughter was covered in blood, right?

01:08PM 1 A That's correct.

01:08PM 2 Q And this was one of the threats that this Mr. Kim gave to
01:09PM 3 you, right?

01:09PM 4 A Yeah, he told me, yes.

01:09PM 5 Q And so after all this, you decided since you're still
01:09PM 6 working as a CPA but have lost all your other monies, that you
01:09PM 7 would begin to pay him a monthly amount, and you said you
01:09PM 8 started at \$4,000, right?

01:09PM 9 A That's correct.

01:09PM 10 Q And so that went on for -- I think you said a year and
01:09PM 11 maybe six months?

01:09PM 12 A Yeah, a year or a year and a half, yes.

01:09PM 13 Q Okay. So somewhere between a year and a year and a half.

01:09PM 14 A Right.

01:09PM 15 Q And if I can do some math in my head, 4,000, ten months is
01:09PM 16 \$40,000, right? So we're looking at maybe \$48,000 for that
01:09PM 17 first year of monies you're earning, you're paying back this
01:09PM 18 wealthy man who is threatening you, right? Is that correct?

01:10PM 19 A I may have missed one or two months, yes.

01:10PM 20 Q Okay. And then you may have also continued for about
01:10PM 21 another six months, right?

01:10PM 22 A That's right.

01:10PM 23 Q So at that point maybe around -- somewhere between fifty
01:10PM 24 to 60,000 would be an estimate of what might have been paid by
01:10PM 25 you of what you were making after you lost everything, right?

01:10PM 1 A Right.

01:10PM 2 Q So then I take it now you're getting to the point where

01:10PM 3 you're not working as much, and you dropped it down to \$2,000 a

01:10PM 4 month?

01:10PM 5 A Right.

01:10PM 6 Q And you kept paying him for another six months, right?

01:10PM 7 A That's correct.

01:10PM 8 Q And then eventually the 2,000 became 1,000?

01:10PM 9 A Yes.

01:10PM 10 Q And finally, you stopped paying him, right?

01:10PM 11 A Right.

01:10PM 12 Q And at this point you and he almost came to physical blows

01:11PM 13 at sometime, right?

01:11PM 14 A We never had any physical fight. Yes.

01:11PM 15 Q But you came close?

01:11PM 16 A But we came very close, that's right.

01:11PM 17 Q And you came that close because you had had enough of this

01:11PM 18 man at that point?

01:11PM 19 A He was threatening me, yeah, and I warned him couple of

01:11PM 20 times that he was just keep pushing. So it's all warnings. We

01:11PM 21 never had any physical fight.

01:11PM 22 Q Okay. Now, I believe that when you were talking with us

01:11PM 23 earlier today you mentioned that at some point you received a

01:11PM 24 call at sometime -- we can pull up the document -- but I

01:12PM 25 believe you received a phone call on Friday the 13th of 2017,

01:12PM 1 correct?

01:12PM 2 A That's correct.

01:12PM 3 Q And this was October 13th of that year?

01:12PM 4 A Yes.

01:12PM 5 Q And this was James or a person said he was James, right?

01:12PM 6 A That's correct.

01:12PM 7 Q And that he needed tax help?

01:12PM 8 A Yes.

01:12PM 9 Q And so you told him that not today, but the next day on

01:12PM 10 Saturday.

01:12PM 11 A That's correct.

01:12PM 12 Q And then on Saturday you received another call from James.

01:12PM 13 A That's correct.

01:12PM 14 Q And government counsel asked you a question, and we who

01:12PM 15 own our own businesses know when you get an extension, it's

01:12PM 16 October 15th, the day that the IRS says, If you couldn't get

01:12PM 17 your taxes done on time, you can get an extension up to that

01:12PM 18 date, right?

01:12PM 19 A Right.

01:12PM 20 Q And so if it falls on a weekend, it goes to the next

01:13PM 21 working day, right?

01:13PM 22 A That's correct.

01:13PM 23 Q And so you wanted to meet with him on Monday,

01:13PM 24 October 16th, because that was the due day, right?

01:13PM 25 A That's right.

01:13PM 1 Q And so that didn't happen either, right?

01:13PM 2 A It didn't happen.

01:13PM 3 Q Okay. So then if we move to the 17th of October, you told
01:13PM 4 the jury here just a few moments ago that you were at the bank
01:13PM 5 and you left at about 3:30, right?

01:13PM 6 A That's right.

01:13PM 7 Q Okay. And then you said -- and they showed you a
01:13PM 8 photograph of the area over at Kewalo Basin near what used to
01:13PM 9 be the old Fisherman's Wharf. Do you recall that?

01:13PM 10 A That's correct.

01:13PM 11 Q And the jury has seen it, so I don't need bring it back
01:13PM 12 up. But you arrived there around 4:00 is what you just told
01:13PM 13 them?

01:13PM 14 A Yeah, between 3:30 and 4:00, yes.

01:13PM 15 Q Okay. And so when you arrived over there, I believe there
01:14PM 16 was a security guard who you spoke with first?

01:14PM 17 A I didn't see security guard.

01:14PM 18 Q Okay. And then as you -- you said you turned around and
01:14PM 19 you were leaving that area because you didn't see anyone,
01:14PM 20 right?

01:14PM 21 A Well, I probably talked to someone there. Yeah, when I
01:14PM 22 didn't see them, there was somebody there, I think, yeah. So I
01:14PM 23 asked, and then -- I don't know. I don't remember, yeah. And
01:14PM 24 so I say, Okay, so I turned around and then I left.

01:14PM 25 Q Okay. So you drove in and you didn't see anyone there,

01:14PM 1 right?

01:14PM 2 A No.

01:14PM 3 Q Okay. And then you turned around and you were leaving,

01:14PM 4 and you got a second phone call, right?

01:14PM 5 A Yes.

01:14PM 6 Q From James?

01:14PM 7 A James, right.

01:14PM 8 Q And so James then in this second phone call that afternoon

01:14PM 9 somewhere around the 4:00 time period --

01:15PM 10 A Right.

01:15PM 11 Q -- maybe later, we don't know for certain, he said, Oh --

01:15PM 12 he started talking to you about, I see you, and describing the

01:15PM 13 car, right?

01:15PM 14 A Right.

01:15PM 15 Q And so at that point you turned around and went back?

01:15PM 16 A That's right.

01:15PM 17 Q All right. So the first person that you see is someone

01:15PM 18 who identifies himself as James, right?

01:15PM 19 A That's correct.

01:15PM 20 Q And James and you, you get out of your car and you greet

01:15PM 21 each other?

01:15PM 22 A Right.

01:15PM 23 Q So now you know you found him, and he has you walk over to

01:15PM 24 a vehicle, right?

01:15PM 25 A Right.

01:15PM 1 Q And he's going to get some paperwork is what he tells,
01:15PM 2 right?

01:15PM 3 A That's correct.

01:15PM 4 Q And instead of getting the paperwork, he comes out and he
01:15PM 5 has a badge, a gold badge like a police officer, right?

01:16PM 6 A That's correct.

01:16PM 7 Q Okay. And at this point he attempts to manhandle you and
01:16PM 8 get you in the car, right?

01:16PM 9 A Right.

01:16PM 10 Q And you --

01:16PM 11 A No, he tried to put handcuff.

01:16PM 12 Q Ah. So the first thing he tried to do was show you the
01:16PM 13 badge --

01:16PM 14 A Show the badge.

01:16PM 15 Q -- and then he took out what looked like police handcuffs
01:16PM 16 and tried to put them just like this, so you couldn't use your
01:16PM 17 hands?

01:16PM 18 A He say, You are under arrest. And then he took out the
01:16PM 19 handcuff and tried to put handcuff on me.

01:16PM 20 Q Did he ever get one of the handcuffs on your wrist?

01:16PM 21 A I guess when it probably touched my hand --

01:16PM 22 Q Uh-huh.

01:16PM 23 A -- and I probably did some --

01:16PM 24 Q Right. And so we saw in the photographs on your right
01:16PM 25 hand, if I remember, you had a scrape or area there?

01:16PM 1 A This side (indicating), yeah.

01:16PM 2 Q Right in here (indicating), right?

01:16PM 3 A Yes.

01:16PM 4 Q So you were resisting him based on the training?

01:16PM 5 A I guess it was left hand.

01:17PM 6 Q Left hand?

01:17PM 7 A Yeah.

01:17PM 8 Q So that went up?

01:17PM 9 A Yeah.

01:17PM 10 Q And so you're resisting him at that time, right?

01:17PM 11 A That's correct.

01:17PM 12 Q And at that point he doesn't have control over you,

01:17PM 13 correct?

01:17PM 14 A Right.

01:17PM 15 Q So this second guy comes up who's not James, right?

01:17PM 16 A Right.

01:17PM 17 Q And you described him as stockier, bigger, Hawaiian, maybe

01:17PM 18 mixed?

01:17PM 19 A Right.

01:17PM 20 Q And the two of them jam you into the car?

01:17PM 21 A That's correct.

01:17PM 22 Q And at that point they begin to assault you, right?

01:17PM 23 A Yeah.

01:17PM 24 Q And among the blows are blows to your face, your nose --

01:17PM 25 A Right.

01:17PM 1 Q -- your body?

01:17PM 2 A Right.

01:17PM 3 Q And I don't want to go through it again, but I believe at
01:17PM 4 some point you felt like a pipe or an object hit you.

01:17PM 5 A Yeah, they was threatening -- I guess it was second or
01:18PM 6 third stop, it looks like they -- they say they going to pull
01:18PM 7 out the pipe from the trunk and they're going to smash couple
01:18PM 8 of bones, body bones, yeah. And then down -- and then they
01:18PM 9 tried to even say, We're going to bring some couple of big guys
01:18PM 10 to -- using F word. But that was really something that never
01:18PM 11 felt before, so...

01:18PM 12 Q And now the conversation that these individuals had with
01:18PM 13 you, the things that they were saying, I believe you said the
01:18PM 14 words were very similar to Mr. Kim, correct?

01:18PM 15 A That's correct.

01:18PM 16 Q So they knew things that Mr. Kim knew, right?

01:19PM 17 A Yeah, as soon as they say, Where is my money? And then,
01:19PM 18 You hide money somewhere. And it just pops up.

01:19PM 19 Q So when they didn't say, "Where is the money?" they said,
01:19PM 20 "Where is my money?" --

01:19PM 21 A Yeah.

01:19PM 22 Q -- you knew it was Mr. Kim who was getting that money, and
01:19PM 23 that at that moment you knew that probably Mr. Kim hired these
01:19PM 24 two goons to get it from you, right?

01:19PM 25 A Right.

01:19PM 1 Q Now, during the time that this happened, some of the
01:19PM 2 things that were done to you, sir, let me see if this is
01:19PM 3 accurate.

01:19PM 4 One of the other things that was said that made you
01:19PM 5 think about Mr. Kim was they said things like, "You defrauded
01:20PM 6 people."

01:20PM 7 A That's correct.

01:20PM 8 Q So this goes back to Mr. Kim saying that you were a thief,
01:20PM 9 that you had stole money, right?

01:20PM 10 A That's right.

01:20PM 11 Q And they said things like, "You hide money. Where is my
01:20PM 12 money?" Right?

01:20PM 13 A That's right.

01:20PM 14 Q And I believe at one point they said something along the
01:20PM 15 lines of they're going to -- and I'm going to say it because
01:20PM 16 they said it -- fuck you.

01:20PM 17 A They say, yeah.

01:20PM 18 Q And among those things, they threatened your life?

01:20PM 19 A That's correct.

01:20PM 20 Q They were going to kill you?

01:21PM 21 A That's correct.

01:21PM 22 Q "We're going to put you on a boat and sink you in the
01:21PM 23 ocean."

01:21PM 24 A That's correct.

01:21PM 25 Q And all this time you were telling them you didn't have

01:21PM 1 any money at all, right?

01:21PM 2 A Right.

01:21PM 3 Q And the guy that was really mean was the driver, right?

01:21PM 4 A That's right.

01:21PM 5 Q He was the one who was delivering the hardest blows?

01:21PM 6 A That's true.

01:21PM 7 Q The other guy was holding you down, right?

01:21PM 8 A That's right.

01:21PM 9 Q But in addition to receiving blows, you also were

01:21PM 10 suffocating.

01:21PM 11 A Yes.

01:21PM 12 Q And so you had to bite the plastic bag that had the bag

01:21PM 13 over your head just to get air.

01:21PM 14 A That's correct.

01:21PM 15 Q Now, you said that they drove you around for about five

01:21PM 16 and a half or maybe six hours, right?

01:22PM 17 A That's right.

01:22PM 18 Q And the first place you identified that you thought you

01:22PM 19 were at is Ala Moana park, right?

01:22PM 20 A Somewhere around there. Ala Moana park or the UH medical

01:22PM 21 school near that area.

01:22PM 22 Q Near that area was the first place, and they stopped, and

01:22PM 23 it's hard to count, but numerous times maybe up to -- I think

01:22PM 24 you described maybe five or six times?

01:22PM 25 A That's correct.

01:22PM 1 Q And at another -- the second time they went over to the

01:22PM 2 University area, University drive?

01:22PM 3 A I thought, but I couldn't see, so -- yeah.

01:22PM 4 Q You couldn't see, but you had an idea that that's where

01:22PM 5 you were at, right?

01:22PM 6 A Yeah, it looks like going around that area, yeah.

01:22PM 7 Q Okay. And then eventually they got to a storage unit that

01:22PM 8 you own, right?

01:23PM 9 A I thought -- yeah, because they asked me, so I told them

01:23PM 10 where I have a storage. And they got my key, the bunch -- it

01:23PM 11 had my office key, my home key, and my storage key. So I

01:23PM 12 thought they're going to go to storage to check whether I have

01:23PM 13 something there. Yeah.

01:23PM 14 Q And so did they take you to the storage unit?

01:23PM 15 A No.

01:23PM 16 Q But they --

01:23PM 17 A I never got out of the car for five, five and a half

01:23PM 18 hours. I was in the car all the time.

01:23PM 19 Q All right. Now, later on you said that you stopped at one

01:23PM 20 point, maybe after you had had a lot of earlier stops, and at

01:23PM 21 that point they opened the door, and I think you said that

01:23PM 22 James and the driver were outside of the car maybe on one time,

01:24PM 23 right?

01:24PM 24 A Brief -- very briefly, yes.

01:24PM 25 Q And a third person then came in to look at you.

01:24PM 1 A Looks like, yes. I didn't see, but I heard the different
01:24PM 2 voice, yes.

01:24PM 3 Q And so you couldn't see, but we can perceive things by
01:24PM 4 touch and our hearing, and so you heard a third person.

01:24PM 5 A Yes, that's correct.

01:24PM 6 Q And they were looking at you, right?

01:24PM 7 A Right.

01:24PM 8 Q Now, your wife saw you and said, We need to go to the
01:24PM 9 hospital, right?

01:24PM 10 A Right.

01:24PM 11 Q And so she took you there after you had somehow gotten
01:24PM 12 home, after your glasses were broken, and drove there without
01:24PM 13 getting hit.

01:25PM 14 A Right.

01:25PM 15 Q And after that experience, you said that there were four
01:25PM 16 police officers and one detective who came to talk with you,
01:25PM 17 right?

01:25PM 18 A That's correct.

01:25PM 19 Q And I believe the -- one of the first officers you spoke
01:25PM 20 to was a female, right?

01:25PM 21 A It was one female officer, yes.

01:25PM 22 Q And you spoke with her, right?

01:25PM 23 A I'm not sure who I spoke first.

01:25PM 24 Q Okay. And was she taking notes? I know that they asked
01:25PM 25 you to write out a written statement.

01:25PM 1 A Somebody told me to write the witness, yeah. So I wrote

01:25PM 2 probably two pages, yes.

01:25PM 3 Q Very good memory, sir. And I can imagine why, because you

01:25PM 4 wanted to get things down right.

01:25PM 5 And they also asked you questions, and you gave them

01:25PM 6 answers in terms of what had happened, but you held some things

01:26PM 7 back, right?

01:26PM 8 A Right.

01:26PM 9 Q Because you were scared?

01:26PM 10 A That's true.

01:26PM 11 Q And anyone would have been, sir. But eventually then you

01:26PM 12 went back home, and then your wife and you decided to take your

01:26PM 13 car to the police, correct?

01:26PM 14 A We didn't -- we didn't say anything about calling police.

01:26PM 15 She just took me to the emergency.

01:26PM 16 Q I'm sorry.

01:26PM 17 A She is more concerned about what happened to me.

01:26PM 18 Q That's my fault.

01:26PM 19 A It was the hospital called the police.

01:26PM 20 Q Ah, I see. And that was my fault, sir. She took you to

01:26PM 21 the hospital, and the hospital called the police that day.

01:26PM 22 A I think so.

01:26PM 23 Q Right. A couple of days later, these folks have seen some

01:26PM 24 pictures of the car that you drove this morning that the police

01:26PM 25 processed. Do you recall that happening?

01:27PM 1 A I was in LA.

01:27PM 2 Q Okay. That's what I was --

01:27PM 3 A Yeah.

01:27PM 4 Q So did your wife take care of that for you?

01:27PM 5 A My wife took care, yes.

01:27PM 6 Q Okay. So after this you flew to LA to see your

01:27PM 7 daughter --

01:27PM 8 A Right.

01:27PM 9 Q -- and stay with her, and she took care of you for about

01:27PM 10 ten days?

01:27PM 11 A Right.

01:27PM 12 Q All right. And during that time you understood that your

01:27PM 13 wife had taken the car to the police?

01:27PM 14 A No, police came to our place.

01:27PM 15 Q Oh, came to your house. Okay. Did you learn that they

01:27PM 16 had processed the car to see if they could find the

01:27PM 17 fingerprints of the people that did this to you?

01:27PM 18 A That's what my wife told me later, yes.

01:27PM 19 Q Okay. And also you said they had that very, very dull

01:27PM 20 knife that took forever to get the duct tape off.

01:27PM 21 A No, to take off --

01:27PM 22 Q Oh, the zip ties.

01:27PM 23 A Yeah.

01:27PM 24 Q The zip ties. And they -- but you also had that over the

01:27PM 25 hood --

01:27PM 1 A The guy in the car put the duct tape on me, and then I
01:28PM 2 took it out by myself.

01:28PM 3 Q Okay.

01:28PM 4 A Yes.

01:28PM 5 Q And then inside the car you kept that duct tape, right?

01:28PM 6 A That's right.

01:28PM 7 Q And they -- the police were able to get that duct tape,
01:28PM 8 right?

01:28PM 9 A That's correct.

01:28PM 10 Q Process it for fingerprints?

01:28PM 11 A Right.

01:28PM 12 Q And also see whether there was anything that could
01:28PM 13 identify these two individuals, right?

01:28PM 14 A I think so.

01:28PM 15 Q So like, for instance, saliva has our DNA in it, right?

01:28PM 16 A I think so.

01:28PM 17 Q Police know that, right? If there's any blood there's
01:28PM 18 DNA, right?

01:28PM 19 A Right.

01:28PM 20 Q And so the Honolulu Police Department asked you if you
01:28PM 21 would consent to have a swab taken in the inside of your mouth
01:28PM 22 so that they could establish your DNA, right?

01:28PM 23 A That was not done couple of years later.

01:29PM 24 Q I understand. At some point they came to you, maybe a
01:29PM 25 year or two later, and said, Aha, would you consent to doing

01:29PM 1 that so we can establish what your DNA is, right?

01:29PM 2 A Sure, they had --

01:29PM 3 Q Because that was wrapped around you, so there might be a
01:29PM 4 good chance that your saliva is there.

01:29PM 5 A I see.

01:29PM 6 Q But if someone else's is there and the major portion of a
01:29PM 7 DNA sample is someone else, they can identify the man who did
01:29PM 8 this to you, right?

01:29PM 9 A Right.

01:29PM 10 Q And so they asked you to do that.

01:29PM 11 A Right.

01:29PM 12 Q Was it in 2017 when you came back from LA, I understand
01:29PM 13 that you gave a series of statements to the Honolulu Police
01:30PM 14 Department detective.

01:30PM 15 A Detective and they sketch -- what they call montage, yes.
01:30PM 16 Officers were there, and they probably interviewed me for an
01:30PM 17 hour, yes.

01:30PM 18 Q And so at that time you gave a couple of statements,
01:30PM 19 right, and they recorded them?

01:30PM 20 A I'm not sure, yeah.

01:30PM 21 Q Okay. It's been some time.

01:30PM 22 A Yeah.

01:30PM 23 Q The question that I had for you, though, is, is that when
01:30PM 24 you gave the picture that you described of Mr. Kim and the
01:30PM 25 picture of the opening of Atlas Steel?

01:30PM 1 A Yes.

01:30PM 2 Q So that would have been back in 2017, right?

01:30PM 3 A 2017, after I came back from the trip, yes.

01:31PM 4 Q Between that 2017 and 2018, do you recall speaking to the
01:31PM 5 FBI the next year?

01:31PM 6 A I don't think I contacted anybody.

01:31PM 7 Q Okay. Do you remember a time where a Honolulu police
01:31PM 8 officer whose last name is Wong and an FBI agent whose named
01:31PM 9 Grant Knorr sat down and spoke with you?

01:31PM 10 A Yes. Way later.

01:31PM 11 Q Way later?

01:31PM 12 A Way later, probably 2020 or -- yeah, probably 2020, I
01:31PM 13 believe.

01:31PM 14 Q If you saw -- if you saw just a copy of -- well, let me
01:31PM 15 establish some foundation.

01:31PM 16 While you were talking to them --

01:31PM 17 THE COURT: Mr. Kennedy, let me interrupt you just for
01:31PM 18 a second. We're past 1:30 now. Do you think you have more
01:32PM 19 than just a few minutes remaining?

01:32PM 20 MR. KENNEDY: I may have like 10 to 15 minutes. I
01:32PM 21 don't want to keep the jury here past that time.

01:32PM 22 THE COURT: All right. That's too much then. So
01:32PM 23 let's go ahead and take our break, and you can resume your
01:32PM 24 cross-examination when we resume tomorrow.

01:32PM 25 MR. KENNEDY: Thank you, Your Honor.

01:32PM 1 THE COURT: So as we go to break for the trial day,
01:32PM 2 I'll remind our jurors to please refrain from conducting any
01:32PM 3 independent investigation into the facts, circumstances or
01:32PM 4 persons involved in this case; do not discuss the substance of
01:32PM 5 this case with anyone, including one another, until I advise
01:32PM 6 otherwise; and do not access any media or other accounts of
01:32PM 7 this case that may be out there.

01:32PM 8 We'll start again tomorrow morning at 8:30, when
01:32PM 9 Mr. Lee will retake the stand.

01:32PM 10 (The jury was excused at 1:32 p.m. and the following
01:32PM 11 proceedings were held in open court in:)

01:33PM 12 THE COURT: All right. Just real briefly, the jury
01:33PM 13 has departed -- you may be seated. The jury has departed.

01:33PM 14 Mr. Lee, you may step down. Thank you.

01:33PM 15 Just a reminder to counsel, if there are any issues
01:33PM 16 before we start the trial day that you wish to take up with me,
01:33PM 17 I'm generally here early, usually at least by 8:00 when I think
01:33PM 18 the courthouse opens. So if there's anything along those
01:33PM 19 lines, I would rather you reach out to Ms. Kimura, let me know,
01:33PM 20 and I can take the bench to address any issues before the jury
01:34PM 21 walks in so that we can start in a timely way. I do not want
01:34PM 22 to take up their time doing things that you and I can do
01:34PM 23 outside of their presence.

01:34PM 24 MR. KENNEDY: I apologize, Your Honor, sometimes it
01:34PM 25 takes a while to get through --

01:34PM 1 THE COURT: I know.

01:34PM 2 MR. KENNEDY: -- and so the jurors are always first.

01:34PM 3 But I will -- if we have something, we can send something to

01:34PM 4 your courtroom deputy and say, Hey, there's an issue, and we

01:34PM 5 can do that.

01:34PM 6 THE COURT: That would be appreciated.

01:34PM 7 MR. KENNEDY: Thank you.

01:34PM 8 THE COURT: All right. We'll see you tomorrow at

01:34PM 9 8:30.

01:34PM 10 (Proceedings were concluded at 1:34 p.m.)

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1 COURT REPORTER'S CERTIFICATE

2 I, Gloria T. Bediamol, Official Court Reporter, United
3 States District Court, District of Hawaii, do hereby certify
4 that pursuant to 28 U.S.C. §753 the foregoing is a complete,
5 true, and correct transcript from the stenographically reported
6 proceedings held in the above-entitled matter and that the
7 transcript page format is in conformance with the regulations
8 of the Judicial Conference of the United States.

9

10 DATED at Honolulu, Hawaii, July 4, 2024.

11

12

13 /s/ Gloria T. Bediamol

14 GLORIA T. BEDIAMOL.

15 RMR, CRR, FCRR

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